

## **REMARKS**

This paper is submitted in reply to the Office Action dated December 18, 2006. As March 18, 2007 is a Sunday, the period for response extends up to and includes March 19, 2007, and this paper is timely filed within the three-month period for response. Reconsideration and allowance of all pending claims are respectfully requested.

In the subject Office Action, claims 17-30 were objected to. Furthermore, claims 17-31 were rejected under 35 U.S.C. § 101. Additionally, claims 1-4, 6-32 and 34 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,592,618 to Micka et al. (Micka), and claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Micka.

Applicants respectfully traverse the Examiner's rejections to the extent that they are maintained. Applicants have amended claims 1, 14, 17-19, 21-32 and 34. Applicants have added new dependent claim 36. Applicants respectfully submit that no new matter is being added by the above amendments, as the amendments are fully supported in the specification, drawings and claims as originally filed.

As an initial matter, Applicants thank the Examiner for the courtesy extended to Applicants' representative in the form of a telephonic interview on March 19, 2007. The current amendments were discussed during the interview. Based on his review of the Amendments, the Examiner agreed that they would overcome the rejections based on the prior art of record.

Now turning to the subject Office Action, and initially to the Examiner's objection to claims 17-30, the Examiner will note that Applicants have amended claim 17 to delete the word "and" from line 7 per the Examiner's suggestion and as required by the Examiner. As claims 18-30 were objected to as being dependent upon an objected-to base claim, Applicants submit that the amendment to claim 17 addressed these objected-to informalities, and withdrawal of the objection to claims 17-30 is respectfully requested.

Next turning to the of claims 17-31, the Examiner will note that claim 17 has also been amended to recite a computer-readable medium encoded with a computer program. In addition, claims 18-19 and 21-31 have been amended in a similar fashion. Withdrawal of the §101 rejection is therefore respectfully requested.

Now turning to the art-based rejections, and specifically to the rejection of independent claim 1, this claim generally recites a method for updating data at a backup system that tracks updates made to a primary system. The method comprises creating a group including a plurality of update requests having an order dependency, concurrently completing the plurality of update requests of the group, and after completing the plurality of update requests, completing a subsequent update request.

As discussed during the interview, Micka is directed to fails to disclose the above claimed features. Applicants respectfully submit that independent claim 1 is also non-obvious over Micka. Reconsideration and allowance of claim 1, and of claims 2-13 and 36<sup>1</sup> that depend therefrom, are therefore respectfully requested.

Next with regard to the rejection of independent claim 14, this claim generally recites a method for updating data at a backup system that tracks updates made to a primary system, the method comprising synchronously processing a plurality of groups of update requests having an order dependency; and asynchronously processing the update requests in each group.

Applicants respectfully submit that Micka fails to disclose or suggest the above claimed features, as amended. Reconsideration and allowance of claim 14, and of claims 15-16 that depend therefrom, are therefore respectfully requested.

Next with regard to the rejection of independent claim 17, this claim as amended recites an apparatus comprising a processor, and a computer-readable medium encoded with program code communicating with the processor configured to process a plurality of update requests having an order dependency by initiating creation of a group including a portion of the plurality of update requests, concurrently initiating completion of the portion of the plurality of update requests, and after initiating the completion of the portion of the plurality of update requests, initiating completion of a subsequent update request.

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<sup>1</sup>New claim 36 is novel and non-obvious by virtue of its dependency on claim 1. However, claim 36 further distinguishes the cited art by arranging the plurality of update requests of the group according to the order dependency after completing the plurality of update requests, as described on page 3, lines 7-8 of the application as originally filed.

Applicants respectfully submit that Micka fails to disclose or suggest the features as amended in claim 17. Reconsideration and allowance of claim 17, and of claims 18-30 that depend therefrom, are therefore respectfully requested.

Next turning to the rejection of independent claim 31 this claim generally recites an apparatus comprising a processor, and a computer-readable medium encoded with program code in communication with the processor configured to update data at a backup system that tracks updates made to a primary system by initiating the synchronous processing of a plurality of groups of update requests having an order dependency and initiating the asynchronous processing of the update requests in each group.

Applicants respectfully submit that Micka fails to disclose or suggest the above claimed features. Reconsideration and allowance of claim 31 are therefore respectfully requested.

Next turning to the rejection of independent claim 32, this claim generally recites a program product, comprising program code in communication with at least one of a primary and backup system, the program code configured to initiate creation of a group including a plurality of update requests having an order dependency, and to concurrently initiate completion of the plurality of update requests, and after initiating the completion of the plurality of update requests, the program code being further configured to initiate completion of a subsequent update request, and a recordable type, signal bearing medium bearing the program code.

As discussed during the interview, Applicants respectfully submit that Micka fails to disclose or suggest the claimed features. Reconsideration and allowance of claim 32 are therefore respectfully requested.

Finally turning to the rejection of independent claim 34, this claim generally recites a program product, comprising program code in communication with at least one of a primary and backup system, the program code configured to initiate synchronously processing a plurality of groups of update requests having an order dependency, and to initiate asynchronously processing the update requests in each group, and a recordable type, signal bearing medium bearing the program code.

Applicants respectfully submit that Micka fails to disclose or suggest the claimed features. Reconsideration and allowance of claim 34 are therefore respectfully requested.

As a final matter, Applicants traverse the Examiner's rejections of the dependent claims based upon their dependency on the aforementioned independent claims. Nonetheless, Applicants do note that a number of these claims recite additional features that further distinguish these claims from the references cited by the Examiner. However, in the interest of prosecutorial economy, these claims will not be addressed separately herein.

In summary, Applicants respectfully submit that all pending claims are novel and non-obvious over the prior art of record. Reconsideration and allowance of all pending claims are therefore respectfully requested. If the Examiner has any questions regarding the foregoing, or which might otherwise further this case onto allowance, the Examiner may contact the undersigned at (513) 241-2324. Moreover, if any other charges or credits are necessary to complete this communication, please apply them to Deposit Account 23-3000.

Respectfully submitted,

March 19, 2007  
Date

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